



MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Zermeno, followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS Bogue, McKillop, Sacks, Fraas, Halliday, Thnay
CHAIRPERSON Zermeno
Absent: COMMISSIONER None

Staff Members Present: Anderly, Conneely, Emura, Looney, Patenaude, Pearson

General Public Present: Approximately 35

PUBLIC COMMENT

There was no public comment.

AGENDA

1. Appeal of Denial by Planning Director of Administrative Use Permit and Site Plan Review Application No. PL-2002-0268 and an Exception to the Off-Street Parking Regulations – Crossway Church (Applicant) – Request to Allow a Church at 21353 Foothill Boulevard and to Modify the Exterior Design of the Buildings at 21353 and 21311 Foothill Boulevard, and to Allow Required Parking to be Shared Between Two Adjacent Parcels
2. Zone Change No. PL-2002-0722 and Vesting Tentative Tract Map 7435/PL-2002-0726 – Paul Martin for Hayward Commons, LLC (Applicant) / Evelyn Lutes (Owner) - Request to Change the Zoning From a Single-Family Residential (RSB6) District to a Planned Development (PD) District and Subdivide 1.1 Acres to Build 15 Homes - The Project is Located at 26965 Hayward Boulevard, near Spencer Lane
3. Site Plan Review Application No. 2003-0414 – Standard Pacific Homes (Applicant) / Acacia Credit Fund 7, LLC (Owner) Request for Approval of the Design of 195 Single-Family Dwellings, and Variances to Rear Yards and Lot Coverage for Certain Lots, to be Located at the Easterly End of Eden Shores Drive as Phase III of Eden Shores (Commonly Known as Oliver West)
4. Modification of Use Permit Application No. 00-160-15 - To Prohibit Use of an Outdoor Area for a Nightclub – Daniel Burris for The Turf Club (Applicant) / John Brenkwitz (Owner) -- The Project is Located at 22519 Main Street, Between A and B Streets

PUBLIC HEARINGS

- 1. Appeal of Denial by Planning Director of Administrative Use Permit and Site Plan Review Application No. PL-2002-0268 and an Exception to the Off-Street Parking Regulations - Crossway Church (Applicant) - Request to Allow a Church at 21353 Foothill Boulevard and to Modify the Exterior Design of the Buildings at 21353 and 21311 Foothill Boulevard, and to Allow Required Parking to be Shared Between Two Adjacent Parcels**

Associate Planner Emura explained the denial by the Planning Director of the Administrative Use Permit as not having enough permanent parking associated with the plan to allow a church of this size. He noted that the three parcels under consideration have different owners and are within two different jurisdictions, both the City of Hayward and the County of Alameda. He described the parking plans proposed by the Church. He then explained the limited alternatives used based on the existing parking.

Commissioner Thnay said he noticed that the lease for the off-site is for 10-years but the County agreed to only a five-year conditional permit for parking on the site. He asked why they did not agree to the 10 years.

Associate Planner Emura said he thought the County might only feel comfortable in granting the lease for this length of time. The County staff planner indicated that if conditions remain the same at the end of the five years, the County would be likely to approve a further permit for five more years.

Commissioner Halliday asked what other uses might be applicable to this property and about the retail parking in the area.

Associate Planner Emura suggested that a new furniture store might not meet the parking requirements of a new furniture store, but since it is an existing use, it would not need to meet new standards. Other retail or office use would have to meet current parking requirements similar to those of the Church.

Planning Manager Anderly explained that primarily an appliance or plumbing type of use that would be applicable.

Chairperson Zermeño asked whether other churches have received parking exceptions.

Planning Manager Anderly said a variance was granted to another church on Kay and Calaroga.

Commissioner Sacks said she was having problems with the two separate ownerships dealing with two separate government entities.



Associate Planner Emura indicated that the church has lease agreements with the owner on the corner who is also an elder of the church. He has purchased the property across the street as well.

Commissioner Bogue asked about the church on Kay and Calaroga, which has now secured permanent rights to the parking property.

Planning Manager Anderly agreed that they now have permanent parking, but they did not at the time the permit was granted.

Commissioner McKillop asked further about the property and the relationship between the owner, the lease and the ownership.

The public hearing opened at 7:50 p.m.

Ben Tipton explained that the owner of the property was willing to grant an irrevocable covenant to the church. He explained that the off-site as well as on-site parking would be met with this covenant, which makes the approvals merely ministerial. The church feels as though they have met their obligation for off-site parking. He answered questions from commissioners and introduced Mr. Lee to make a further presentation.

Commissioner Halliday asked whether the parking across the street at the medical building was only in use during the day and whether there were any activities at the church during the weekdays for which parking in this lot would be necessary.

Mr. Tipton explained that the covenant would be specific enough to use the lot only during off-periods.

Commissioner Halliday asked staff whether parking was needed to be available on weekends and not weekdays.

Associate Planner Emura agreed that the parking ordinance supports this kind of use. The irrevocable covenant could include allowing the use of the parking lot upon approval of the owner of the parking lot.

Planning Manager Anderly explained that there is a requirement to have some parking on site at all times, however, it does allow for exceptions. Churches are exempted in some ways.

David Lee, member of the church, presented a video of the proposed changes to the building. He explained that the Church has no plans for uses during the day times. He described the present location and the differences the Church will make to the site. He noted that the gate is already there but they are setting it back somewhat.

Commissioner McKillop asked about the classrooms on the site.

Mr. Lee explained they are not planning to have a school there. There will be Sunday classes only.

Kay Ku, a founding member of the Church, explained that before she purchased the medical building for further parking for the church, they were informed that there would be no problem with either zoning or the permit. She noted that it has been two years. They thought they were going in the same direction with the City staff, until they received the denial letter. She said she was shocked because the issue is the parking lot, explaining that members have already been using the parking lot at this site for 10 years. When it went up for sale, they were worried about not being able to use this lot so she and her family purchased the property and are the present owners of the medical building now. She noted that there are 52 parking stalls there. Before buying the lot, they came to the City. She was assured this would meet the off-site parking requirement for the Church. Then she received the notice to go to the County to get formal approval to use the parking lot. Although they had been using the lot for 11 years, City Staff said they needed formal approval. As to why the County granted the permit for only five years, they had no answer. They were assured that after 5-years they might get a renewal so they are not concerned. City staff was concerned about the 5-years term. She said that, as owners, they would commit permanently to allow the church to use the parking lot.

Minson Ahn, senior pastor at the church, introduced himself and explained that this is a Presbyterian Church focusing on youth ministry. They are also a giving church. Nearly half their budget is spent on giving. Once a month, they visit the open door mission for the homeless, to provide food and money. Although their membership is primarily Korean, they will include everyone around them. The Crossway Church will benefit everyone.

Commissioner Halliday asked about the number attending each service.

Rev. Ahn said they usually have 200 adults for both services. He explained the youth services at the church as well at the facility. He thought 50 additional parking spaces would be adequate since they have different services at different times.

Commissioner Halliday asked whether, if something were to happen to break that relationship for parking, so you cannot park at the medical facility.

Rev. Ahn explained that the elder who bought it is holding it so that at a future date, the Church will be able to buy it. He noted that the Church does not use it for the parking during the day.

The public hearing was closed at 8:06 p.m.

Commissioner Thnay asked staff about the parking and the offer for the revocable covenant.

Assistant City Attorney Conneely said the irrevocable covenant is a contractual one between the property owners. The main factor for consideration is really the County's conditional permit.



Commissioner McKillop asked whether the County's conditional use permit was for parking for the church or for the medical offices.

Commissioner Fraas asked whether there had been any neighborhood comments or concerns expressed.

Associate Planner Emura said there had been no comments nor had the County received any comments. He added that one of the doctors at the medical office called in support of the use.

Commissioner Sacks asked about the worse case, if staff comes back with requirements of approval and if County decides it wants something else.

Assistant City Attorney Conneely suggested that one approach might be to condition the use on the continued availability of the adjacent parking lot. If staff expressly made a condition that the applicant needs parking at this site and if the County decides not to continue the use permit, then the City of Hayward could take action to revoke the use permit for the church. The question then becomes, what happens in a court proceeding.

Commissioner McKillop asked whether the applicant is willing to take that risk and whether this has been addressed with staff.

Associate Planner Emura said he has told them there are no guarantees. The applicant continued to forge forward. He suggested that the Commission would need to address the question to the applicant.

Commissioner Thnay indicated that there are no 100 percent certainties, however it looks like staff's concern will be addressed. He noted that the Church provides a service to the City of Hayward, particularly with their aid of The Open Door Mission, which is a good thing. They also bring customers to the restaurants on A Street on Sundays.

Commissioner Halliday said she agreed. She thought the applicant had met the concern of staff, adding that nothing is risk free. She then moved to uphold the appeal and request staff to come back with findings and conditions of approval, which will include that adequate parking, be maintained.

Assistant City Attorney Conneely commented that there has been no environmental review at this point. As a result, the motion has to be to direct staff for CEQA review.

Commissioner Halliday then restated her motion, seconded by Commissioner Thnay, to note that the intent of the Planning Commission is to uphold the appeal, and requested that staff come back with the appropriate CEQA review, findings and conditions which will include that

adequate parking be maintained off-site as outlined in the agreement the Church has with the adjacent property owner.

Commissioner Halliday commented that this is a good use for the property. She also is concerned that there are not that many other uses that also would not need additional parking.

Commissioner Sacks pointed out that they were also talking about the willingness to grant the irrevocable parking adding that this needs to be included in the conditions.

Commissioner Bogue expressed concern regarding the County and their intent for renewal every five years, as well as irrevocable parking agreement. He asked what if it all falls through. He noted that he thinks the City is taking on too much risk at this point. He said the County should take on the more risk. He said he needed further information on the risk to the City of Hayward; as a result he would not be in support of the motion.

Commissioner McKillop explained that it is the intent of the church to purchase this property, and agreed there was still much uncertainty. She said she would support the motion.

Commissioner Halliday asked for further information about the County use permit.

Planning Manager Anderly indicated that the County approved the Medical offices and the appurtenant parking. This arrangement for the conditional use permit was to allow an off-site property use for the parking lot, that specific use could be revoked or rather not renewed.

Chairperson Zermeno said he appreciated the church's improvement in the area. He liked the churches plans.

Commissioner Sacks said her instinct is to say no, but another part wants to see how this all works out. She said she would support the motion since it is not a final/final decision.

The motion passed, 6:1, with Commissioner Bogue voting "no."

2. Zone Change No. PL-2002-0722 and Vesting Tentative Tract Map 7435/PL-2002-0726 – Paul Martin for Hayward Commons, LLC (Applicant) / Evelyn Lutes (Owner) - Request to Change the Zoning From a Single-Family Residential (RSB6) District to a Planned Development (PD) District and Subdivide 1.1 Acres to Build 15 Homes - The Project is Located at 26965 Hayward Boulevard, near Spencer Lane

Commissioner Fraas recused herself because of a conflict.

Associate Planner Pearson described the property and the proposed Planned Development District. The Neighborhood plan encourages this type of density. However, neighbors have raised issues of density, traffic, views and privacy. In response, staff feels many of these concerns have been answered through the buildings' design, which will be lower, and smaller, and with the orientation of the buildings. Density is appropriate and housing is needed near the university. Staff believes this will be a nice transition from nearby homes to the condos next to it. Staff recommends approval.



Commissioner Sacks asked about the site plan, which showed cars parked on the private drive.

Associate Planner Pearson agreed that no parking would be allowed on the drives.

Commissioner Halliday asked for background as to why the zoning and GP are inconsistent on this lot. She asked how this came about.

Associate Planner Pearson noted that when the Neighborhood Plan was adopted about five years ago, the General Plan and zoning designation for the property had been high density residential. It was decided to decrease the density for the General Plan to medium density. The intention was if a developer wanted to develop single-family homes up to 6,000 square foot lots, they could do that without a permit.

Planning Manager Anderly explained that the intent was you could not place a planned district zoning without a specific plan. It was intentional to the project. Although the General Plan was changed to medium density but suggested a higher density. In reality this was just a holding designation.

Commissioner Halliday discussed the medium density designation, which allows up to 17 homes to be developed.

The public hearing opened at 8:36 p.m.

Jeff Potts, architect, representing Hayward Commons, discussed the history of the project and the changes. He explained the concept of walk-up style town homes, 18-units with 3-story units, the site is down in a hole. He added that this lot is really not conducive to single-family homes. Because of neighborhood meetings they redesigned a number of things and went with a detached town home. They reduced the mass, change the roof direction, dropped the grade of the site so they managed to reduce the height quite a bit. He commented that with the detached homes, meeting the City requirements became a problem. They managed to create a variety of looks with a wrap-around porch and step back upper stories, side elevations, detached town homes at this point.

Commissioner McKillop asked whether their firm has designed any other projects in the City of Hayward.

He explained that they worked on the Grand Terrace homes with Pulte Projects as well as numerous other production projects in the Bay area.

Commissioner Halliday asked about the estimated selling price of the homes.

Mr. Potts indicated that they would sell for as much as they can get them built. He added that this is a new trend, like a town home, but walls are not touching.

Paula Navarro said she lives in the house directly behind the condos. This is not what was supposed to happen, everyone in the neighborhood is unhappy with being here. Single-family homes are what neighborhoods are about; it contributes to the stability of the City. It was suggested that they place their children in private schools in the City because of the number of rental properties in the City, which creates transiency in the schools. She added that the hills are the one part of Hayward of which all residents should be proud. It is a beautiful area; residents do not need 50 people on one acre.

Jody Switzer Blum, lives on Dobbel Avenue, explained that she is concerned with adding more high density since already there is not enough parking in the area. She owns two homes, multiple unrelated families living in both properties, not enough parking, not safe. By law, there is nothing the City can do about that so if you already have high density on a lot, it will exacerbate the parking problems and spill onto Spencer Lane. It will decrease property values. She added that very few people are willing to volunteer in the schools, because there are too many rentals. The City of Hayward can support some renters but there needs to be a balance to this area. She said she is afraid that these will open up to rental housing. She asked that they not rezone this lot for this many units.

Chester Patton, resident, said it is disingenuous to suggest there would be no impact to existing residents. This will create a loss of privacy, degradation of the view, devaluation of property, crime, noise pollution. He said he is all for in-fill development but it is usually in mixed-use areas. Places that are close to major public transportation. He urged the commission to deny this application and leave it as it is presently zoned.

Ed Cassaro, Spencer Lane, house on the corner, said he as observed this project and the neighborhood plan is violated by this plan. He noted that they are not following what the Highlands has proposed, insufficient parking no parking on Hayward Boulevard, with the overflow parking on Spencer Lane in their neighborhood. He noted that already there are complaints that there is overflow parking. When you look at the design, there is parking only in the garages with no drive-way parking, staff recommendations say could not use the garage for living space or storage but for car parking only. He asked how this is enforced. He added that he is not against development in Hayward but he would like to see something better planned.

Commissioner Halliday said she was interested in the statistics that he tried to cite from the Bureau of Transportation.

Mr. Cassaro quoted the article from the Department of Transportation saying that there is at least one car per person in a household. Which would create a predominance of cars, which this area cannot support.

Jim Sommer, one of the original households in this area in Hayward, said he is not against development but when they moved in 1981, there were no condominiums in the area. It used to be low-key but now it has Hayward traffic like downtown. He asked the members to deny the



multiple homes on this lot. In asking for denial, he said they could still build more than what is there.

Ken Ryken spoke in support of this project. He explained that where he lives is very similar to this project. These homes are built for people with more income than time. They choose to let the homeowners association deal with the yard work, etc. He noted that their area rarely has vacancies. This is the type of project needed to encourage in this area. The existing homes are not designated toward students, too much space for a single family. You need projects like this. They develop an excellent sense of community. They do not have problems since there are no common walls, live in a tight community. People have not known an upscale project like this. He encouraged support for the project.

Valerie Caveglia commented that to approve this would negate the Hayward Hills Task Force plan. She explained the down zoning on the neighborhood. Following the same guidelines as the Old Highlands, asking for 15 houses that across the street would allow 4. She noted that the developer ignored many suggestions. History of the hard work of the Task Force is being ignored.

Tina Stewart, representing Mrs. Lutes who has lived in this area since her 30's. She is now in her 80's, and has finally put her home on the market. She waited to do her development. This process has taken an emotional toll on her. She was asking for their support of this proposal.

David Edu commended to the Commission to make a favorable vote.

Joel Thomas a rancher and single father in the Hayward Hills said this development sounds reasonable to him. In fact, there are no other homes in this area that he could afford. Looking to buy in a nice type community. Hope for approval so he can live where he works.

John Abernathy, a renter and a single-father, said he, too, is looking for a home to own. This is in an area in which he would like to live. However, without a project like this he could not afford the area, this community is ideal for him and would be beneficial.

Rob Simpson, a broker with a realty company said he was happy to see this project. It will help mitigate sound and is a good transition from the single-family homes. It is also built to serve a presently under served market. He asked for support.

Evermont King who said he owns many multiple units has no problem with bumping into his neighbors. It actually provides more security for his home. This area is steadily improving. This project is going to improve Hayward. He commented that someday, his own house would be knocked down and then that will improve the area. This is affordable piece of real estate with a view.

Jean Wilms commented thumbs up to the development. This will not jeopardize the view, now new neighbors. As to traffic, she said she would rather see residential dwellings up here, last year a child care business came into this area she would rather see residential housing rather than commercial development. She asked for support for this project. Let them build. It is not an eyesore but a good development. Let them go and prosper.

Bob Sakai, Vice Chair of the Hayward Highlands Neighborhood Plan, explained that the majority of the Task Force, 23 of them, talked about a lot of issues, wanted to keep a higher density than single family residential. It was a continuous meeting for which they came up with a compromise with the zoning of single-family, on which, for a higher density, an applicant would have to come in with a very well designed plan. Having gone through the process, the developer has produced something of which the task force would think highly.

Commissioner Halliday asked him to elaborate further on the interface zone.

Mr. Sakai said he does not think the City Council adopted the recommendation in this regard.

Commissioner Halliday asked about the 70-foot setback and how significant it would be for requirements.

Associate Planner Pearson said staff had not calculated the exact figures.

Paul Martin, developer, pointed out, when all the neighbors bought their homes, this property was zoned high density. He said he had been involved in the process for almost two years. It had been indicated as a high-density parcel. They went from 20-units to down to 18-units. After the first neighborhood meeting, they came away with an understanding of the problems as the neighbors saw it were mass, view and density. So they stepped back and decided to do a hybrid type project. They created a project to get it below their views. He estimated that were the 70-foot setback imposed, they would lose half the project.

Planning Manager Anderly added that using the same concept, you would lose nine of the 15 units.

Mr. Martin noted that this project does provide for a transition between the condominiums and the homes, now 24-acre. As to these becoming rental properties, he said, these units are not conducive to rentals, and will probably be sold to young professionals.

Commissioner Halliday expressed her concern regarding parking, since it is not easy to go away from the site and find parking since guest parking is so limited.

Mr. Martin speculated that as a reality, people might park on adjacent streets.

The public hearing was closed at 9:33 p.m.

Commissioner Sacks said her questions had been answered. She then **moved**, seconded by Commissioner Thnay, to approve the staff recommendation. She added that she did have contact with the developer, phone conversations, and email, and also drove to the location. She



said she had problem finding a parking space but looked at the property. The issue of parking keeps coming up. People buy homes with limited space and then keep buying more cars. The conditions of approval will help quite a bit. She noted the various parking requirements for the CC&R's. The issue of parking will continue to come up. Another thing is the fear that these will become rentals. The reality is that homeowners rent properties. Nothing about the property itself designates that these will become rentals.

Commissioner Thnay spoke to his second. He noted the configuration of the lot and wondered whether a single family home would even be appropriate in that location. With homes located on top of the knoll, this transition is appropriate. Since this is an upscale development and with the prices, it would be unlikely that owners would rent them out. There would be other better returns for investment. As to parking, it is inevitable that there will be parking problems.

Commissioner Bogue said he would support the motion as a good transition between the single-family homes and the high-density condominiums to the west. Parking is already not enough on the site. Although it does meet the City requirements, the requirements need to be changed.

Commissioner McKillop said she hated this decision. She noted that it is an okay project, density is there and as a transition, conceptually it is sound. She said there is no doubt there will be negative impact on the residents who live there. She would support the motion, but was not happy about it.

Commissioner Halliday agreed it was a difficult decision. She noted that she too was not entirely happy with the project. She noted the inconsistency between the general plan and the density. She said she would like to see a smaller density of the project, adding that she was not in favor of taking away the open space. She was sorry that the neighbors are so unhappy. She added that it was interesting to hear about the older lady who owns this property and has had to accommodate all the other new comers into her neighborhood.

Chairperson Zermeño agreed that the parking is a problem. There might have to be further reconsideration of the requirements of the City. He added that he would support the motion because there were more positives than negatives of the project. He said it was a sound transition for the neighborhood.

The motion passed 6:0, with Commissioner Fraas in abstentia.

3. Site Plan Review Application No. 2003-0414 – Standard Pacific Homes (Applicant) / Acacia Credit Fund 7, LLC (Owner) Request for Approval of the Design of 195 Single-Family Dwellings, and Variances to Rear Yards and Lot Coverage for Certain Lots, to be Located at the Easterly End of Eden Shores Drive as Phase III of Eden Shores (Commonly Known as Oliver West)

Principal Planner Patenaude indicated that this is Phase III of Eden Shores. Many homes in

Phases I and II have already been sold and built out. He described the various lots and the variance requests. This phase contains 195 lots, which will be a continuation of a previously built neighborhood.

The public hearing opened at 9:58 p.m.

Bo Crane, Standard Pacific, explained that the project has been successful on all levels. He added that they were fine with the conditions.

Commissioner Bogue asked about the landscaping detail on page L-4.

Mr. Crane said this was on private property and would be maintained by the private property owners. There are some common areas, which will be maintained by the Home Owners Association.

The public hearing was closed at 10:04 p.m.

Commissioner Sacks **moved**, Commissioner Bogue seconded, **the staff recommendation**, Commissioner Sacks commented on driving on Hesperian. She added that it is shaping up nicely.

The motion passed 7:0.

4. Modification of Use Permit Application No. 00-160-15 - To Prohibit Use of an Outdoor Area for a Nightclub – Daniel Burris for The Turf Club (Applicant) / John Brenkwitz (Owner) -- The Project is Located at 22519 Main Street, Between A and B Streets

Principal Planner Patenaude made the presentation. He described the property and the modification proposed. He noted the conditions of approval for this property and the open yard, lot area. He said the netting is not consistent with the area. He noted that it was required that a masonry wall be constructed before any use might be made of the outdoor area. The outdoor patio impairs the use in this area. Staff recommends modifying the use permit and denying the use of the outdoor area. Should the applicant decide to construct the outdoor area masonry wall, the commission could apply to modify the permit again.

Chairperson Zermeño asked about the driveway and gate facing A Street.

Principal Planner Patenaude noted that the driveway would not be used; staff has not reviewed landscape plans.

Principal Planner Patenaude said staff is asking for a modification of their conditional use permit. They would have to remove all of the items in the patio area. With the masonry wall, however, they could have stayed there.

Commissioner Halliday asked why the double wall, the netting and an inner wall. She noted that the tent over the deck has to go. She asked whether the applicant would use the deck as a smoking area.



Principal Planner Patenaude explained that the double netting on the deck is above the Pved area, the double netting screens the deck. If the Commission changes the Use Permit, there would be no using the deck for anything other than an emergency exit.

The public hearing opened at 10:15 p.m.

Dave Barker explained that the Turf Club is a work in progress. The Redevelopment moved them out of their original location about five-years ago. He noted that the Club was closed for 18 months although a permit was approved in 2000, it did not open until 2001. He noted that they have had a conversation with staff about smoking on the deck. Netting was put up to insure privacy and limit harassment. He said they could now work with the City on any problems because the owner of the property has sold it to the Turf Club. Property owner would not sign. Working that problem out. As a result, he said they do not feel that a modification of the Use Permit is necessary, and they would like an extension until the end of 2003, which would give them time to have the wall and landscape installed.

Commissioner Halliday asked whether they would be able to have the wall installed by the end of December.

Mr. Barker explained that, provided the City approves, although actually the wall has been approved, the design and landscaping needs to be approved. He indicated that they would be submitting for those things as soon as possible, adding that he believed they could be well under way by the end of the year, if not completed. They have the financing in place for the renovations.

Commissioner Halliday then asked about removal of the netting in transition.

Mr. Barker said they could live with removal of it. However, there is somewhat of a safety and harassment factor there. He indicated that mostly it is verbal harassment since not everyone in Hayward accepts alternate lifestyle behavior.

Commissioner Sacks stated her strong sense that there was willful disobedience in not meeting the conditions of two years ago. Given that sense she wondered why the Commission should give them a further opportunity to disregard the conditions.

Mr. Barker wondered how she arrived at the fact that there was willful disobedience.

Commissioner Sacks commented about the ugly netting and the tent over the deck. It all needs to be gone.

Commissioner Bogue asked about the netting. The commission had approved a wall and the second netting is unsightly.

Mr. Barker indicated that anyone standing on the deck is clearly visible to the street. The wall would be somewhat higher than the current netting and will obscure much of the view.

Commissioner Fraas asked what is going to happen if you can't get the wall done by the end of December.

Mr. Barker said tearing down the netting now would delay us.

Commissioner Fraas said it seems like a short time frame.

Mr. Barker indicated that they are now in a position to go ahead.

Commissioner Fraas asked how many patrons are usually out in the patio area.

Mr. Barker said generally since there is the smoking area back it would depend on the number of patrons who smoke. He added that they discourage people from going out front.

Commissioner McKillop said she was happy to see the club come back to life, although she was unhappy to see the problems with the City. She added that she was disappointed that they have not done more to work with the City. She was pessimistic that they would get through the process and get the fence up by the end of the year. She said she would love to see this work for you.

Mr. Barker indicated that the process is a problem but the fence can go up in 48 hours.

Chairperson Zermeño asked whether they agree this is an ugly backyard and were they willing to go back to the City with 8-foot fencing. He then asked what was the vision for the patio.

Mr. Barker indicated that they often host fundraisers. The patio was and can be used as an entertainment area. Since they do not serve food, it's not a dining area.

Chairperson Zermeño said the Commission wants you to succeed.

Doug Krease assured members that there is not willful disobedience. They have been working toward the financial to get this wall up. Now the means are there, they will abide by the Conditions as soon as possible.

The public hearing closed at 10:33 p.m.

Commissioner Sacks asked what conditions they had approved as appropriate uses for the patio.

Principal Planner Patenaude said, as was reported, there would be things like fundraisers and parties hosted by the club. As a rule, daily customers could enjoy being outside.

Chairperson Zermeño asked what would the fence look like.



Principal Planner Patenaude said they had looked at proposals to be appropriate with the building next door.

Commissioner Halliday asked whether the design of the fence would take care of the sight problem.

Principal Planner Patenaude said, yes, as well as low-level landscape.

Commissioner Halliday moved, seconded by Commissioner Sacks, to extend the period for compliance to Dec 31, 2003, with the provision that the current netting and tents be removed from the property by September 30th.

Commissioner Halliday commented that the Turf Club has been in business for 35 years. The City took their former property for the Redevelopment District so the City has obligation to accommodate them. She said it does not sound willful, it just sounds difficult. Now that they are owners of the property, she is willing to give them the rest of the year to comply. She suggested an increased police presence in the area to protect the patrons.

Principal Planner Patenaude commented on the unsightly materials behind the fence. Meantime, there are a few issues like that, including the dumpster.

Commissioner Halliday added to her motion that the other items on the property be moved out of sight or cleared.

Principal Planner Patenaude asked whether you would require removal of landscape materials.

Commissioner Halliday said to her potted plants are not unsightly.

Planning Manager Anderly added that while this is undergoing construction they might enjoy the pots closer to the back door.

Commissioner Halliday added to her motion to move unsightly items to the satisfaction of the Planning Staff. This was agreed.

Chairperson Zermeno asked whether the Turf Club has security.

Commissioner Bogue asked the maker of the motion whether any netting would be a part of the final plan since there are now two layers of netting.

Principal Planner Patenaude indicated that the original approval was not to include netting. He noted that the Citizens Advisory Board has already looked at the concept on the wall design and approved it.

Commissioner Bogue said it is important to move the plants to the deck area. This motion seems to be putting a lot of little things on the planning staff. He suggested asking the applicant to move the plants to the deck area.

Commissioner Halliday agreed.

Chairperson Zermeño suggested not taking away the tent from here until December, but allowing it through the rainy season.

Commissioner Halliday suggested perhaps a temporary awning, has sympathy there.

Planning Manager Anderly said they have not proposed any long-term solutions for that area. She suggested asking the applicant what his solution is.

Commissioner McKillop was looking at the sight line from the street.

Planning Manager Anderly indicated that because of the height of the wall, people could see nothing from the sidewalks.

Commissioner Sacks said she hopes there is a resolution to the problem since she would hate to see Turf Club, like others, where the smokers are on the sidewalks and making it difficult for pedestrians.

The motion passed 7:0.

ADDITIONAL MATTERS

3. Oral Report on Planning and Zoning Matters

Planning Manager Anderly announced the third special meeting in October.

4. Commissioners' Announcements, Referrals

Commissioner Halliday indicated that she would not be at the meeting for the 25th.

Commissioner Sacks thanked Principal Planner Patenaude for the information on co-housing in Paso Robles. She also added that she attended a "Smart Growth" workshop in Oakland. She added that she hoped others would attend the September 26 session. She said while in Chicago, she picked up price sheets for parking spaces. She noted that Chicago no place to put cars so parking is at a premium for thousands of dollars. There is no parking downtown. Merchants along the streets instantly built parks.

Chairperson Zermeño announced that the Pollo Loco might replace the Burger King on Mission Boulevard.

MINUTES



**REGULAR MEETING OF THE PLANNING
COMMISSION, CITY OF HAYWARD**

Council Chambers

Thursday, September 11, 2003, 7:30 P.M.

777 "B" Street, Hayward, CA 94541

APPROVAL OF MINUTES

- July 10, 2003 approved
- July 24, 2003 approved

ADJOURNMENT

The meeting was adjourned by Chairperson Zermeño at 10:55 p.m.

APPROVED:

Christopher Thnay, Secretary
Planning Commission

ATTEST:

Edith Looney
Commission Secretary